

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Armando Jose Velasquez, #11942-027,)
)
Petitioner,)
)
v.)
)
Bryon M. Antonelli,)
)
Respondent.)
_____)

Civil Action No. 6:18-2422-BHH

ORDER

This matter is before the Court on Petitioner Armando Jose Velasquez (“Velasquez’s”) pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review.

On October 29, 2018, Magistrate Judge Kevin F. McDonald filed a Report and Recommendation (“Report”) outlining the issues and recommending that the Court summarily dismiss this case without prejudice and without requiring Respondent to file a return. Attached to the Report was a notice advising Petitioner of his right to file written objections to the Report within fourteen days of being served with a copy. On November 15, 2018, Petitioner filed a motion for an extension of time to file objections, requesting a 60 or 90-day extension. The Court granted Petitioner’s motion, giving him until February 11, 2019, to file his objections. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court

is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no clear error and agrees with the Magistrate Judge that the instant § 2241 petition should be summarily dismissed without prejudice.

Accordingly, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 15) and dismisses this action without prejudice and without requiring Respondent to file a return.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
Bruce Howe Hendricks
United States District Judge

February 26, 2019
Charleston, South Carolina